

**REMARKS:****Status**

Claims 1-31 are pending. Claims 1, 12, 24, and 29 are independent claims.

**Claim Rejections under 35 USC §102, 103**

Claims 1-8, 10-11, 24-25 and 28 are rejected under 35 USC 102(b) as being anticipated by CAL PX (“Power Exchange Settlement and Billing Protocol (PSABP)”). Claims 9, 12-23, 26-27 and 29-30 are rejected under 35 USC 103(a) as being unpatentable over CAL PX in view of Shimko et al. (U.S. Patent No. 7,139,730 B1).

**Claims 1 and 24**

The CAL PX document, used to reject claims 1 and 24, relates to the California Power Exchange (CAL PX) organization. The CAL PX organization was a central marketplace that handled 75 to 80 percent of the California’s electricity purchases. In practice, the CAL PX organization was set up in 1998 as a central exchange where buyers, California’s investor-owned utilities, and sellers (energy service providers and generating companies) would match their bids and offers. The CAL PX document teaches that CAL PX performed both the trades and the settlement, as discussed below:

**5.1 Issue of Settlement Statements****5.1.1 PX Responsibility**

The PX shall issue the Preliminary Settlement Statement and the Final Settlement Statement relating to each Trading Day to the relevant PX Participant according to the Payments Calendar and the Settlement communication methods contained in the PCP.

However, this type of arrangement – namely that the Spot Market Operator executing the trades and performing the settlement – may create problems. As discussed in the background of the present application, the Spot Market Operator may be left vulnerable to default and in turn weaken the exchange.

In contrast to the CAL PX document, claim 1 recites

receiving by the spot market clearing house data sent from the spot market operator indicative of an initial settlement amount for at least one trade in a predetermined period, the spot market clearing house being separate from and unrelated

to the spot market operator;

sending an initial clearing statement from the spot market clearing house to at least one clearing member based on the data indicative of the initial settlement amount, the clearing member being separate from and unrelated to the spot market operator;

See also claim 24. Specifically, claims 1 and 24 recite that a spot market clearing house, which is “separate from and unrelated to the spot market operator”, perform both the initial and final clearing. Further, claims 1 and 24 recite that the clearing member, again “separate from and unrelated to the spot market operator”, work with the spot market clearing house to clear the trade. The separateness of the clearing house and the clearing member from the spot market operator strengthens the spot market operator. Specifically, the spot market operator may still maintain its core function of executing trades, while shedding the problems of settlement. And, the spot market clearing house may clear the trades of a specific participant for the specific participant’s trades with a multitude of spot market operators. See claim 31. For this reason alone, claims 1 and 24 and the claims that depend thereon are patentable over the cited art.

#### **Claims 12 and 29**

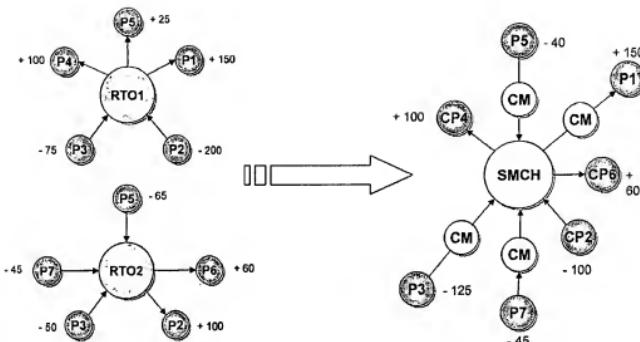
Claim 12 recites:

receiving by the spot market clearing house data indicative of settlement amounts for the trades of a participant in the predetermined period from the plurality of spot market operators, the plurality of spot market operators being unrelated to one another and being separate from the spot market clearing house;

aggregating by the spot market clearing house the data indicative of settlement amounts for the trades from the plurality of spot market operators to indicate a net settlement amount for the participant across the plurality of spot markets;

determining by the spot market clearing house a performance bond for the participant based on the trades of the participant conducted through the spot market operators;

See also claim 29. Claims 12 and 29 are directed to a spot market clearing house that works with, but is separate from, a plurality of spot market operators. An example of this is depicted graphically in the present application as follows:

**Fig. 14b**

As shown, the spot markets (such as RTO1 and RTO2) are separate from each other and from the spot market clearing house (SMCH). Even though they are separate, the spot market clearing house may settle the trades for participants in both markets, and determine the bond for the participants based on the trades conducted in both markets.

This is unlike typical settlements, such as taught by the CAL PX document. Typically, if an RTO (such as the CAL PX organization) performed its own settlement, it was unaware of the trades of a specific participant outside of its market. So, if the specific participant were making riskier trades in another exchange, the spot market operator would be unaware and would not be able to account for these riskier trades when levying a performance bond. An example of this is shown in Figure 14B with participant P5. According to RTO1, participant P5 has a net profit of +25. However, because of trades in RTO2, participant P5 actually has a net loss of -40. Under a settlement arrangement as taught by the CAL PX document, the RTO1 would be unaware of participant P5's riskier trades with RTO2. RTO1 would therefore levy a performance bond for participant P5 only based on its limited knowledge of participant P5's trades with itself. The Shimiko reference, cited to reject claim 29, does not remedy the failing of the CAL PX document. Shimiko does not override the clear teaching in the CAL PX document is clear that each spot market settle its own trades. In contrast, claims 12 and 29 as recited use the power of

the spot market clearing house to clear trades across multiple spot market operators and levy the performance bond for these trades across the multiple markets. In this way, claims 12 and 29 avoid the serious flaw as taught by the CAL PX document and are patentable over the cited art.

**SUMMARY**

If any questions arise or issues remain, the Examiner is invited to contact the undersigned at the number listed below in order to expedite disposition of this application.

Respectfully submitted,



\_\_\_\_\_  
Amir N. Penn  
Registration No. 40,767  
Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200